IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **Crl.R.No.87 of 1992**

DATE OF DECISION: December 14, 2007

R.P. SINGH GAUTAM ...PETITIONER

VERSUS

STATE OF PUNJAB ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.

PRESENT: MR. VIPIN GHAI, ADVOCATE FOR THE PETITIONER.
MR. D.S. BRAR, DAG, PUNJAB.

ASHUTOSH MOHUNTA, J.(ORAL)

The petitioner has filed this revision petition against the judgements dated 9.9.1989, passed by Judicial Magistrate Ist Class, Kharar and the judgement dated 25.1.1992, passed by Sessions Judge, Ropar vide which his appeal was dismissed. The petitioner was convicted under Section 420 IPC and was sentenced to undergo rigorous imprisonment for 2 years and to pay a fine of Rs.3000/- and in default of payment of fine, he was directed to undergo further rigorous imprisonment for 1 year.

As per the prosecution, the allegations against the petitioner are that he was a managing partner of M/s Gautam Enterprises at Kauhar Fatehpur, Tehsil Bindki in District Fatehpur (U.P.). The said firm was running the agency of M/s Punjab Tractors situated at Mohali. M/s Punjab Tractors despatched the consignment of six Swaraj tractors on 10.12.1982. The petitioner made the payment only with regard to three tractors, however, he did not make the payment of remaining three tractors. The

three tractors were valued at approximately Rs.2,50,000/-. As the petitioner tried to defraud M/s Punjab Tractors, therefore, an FIR was registered against the petitioner and he was tried for having committed the offence under Section 420 IPC. Before the trial Court the prosecution examined 7 witnesses and also tendered in evidence certain documents showing that six tractors were sent to the petitioner but he made the payment of three tractors only and cheated M/s Punjab Tractors with regard to payment of remaining three tractors. The petitioner took up the stand that it was a civil dispute and pertained to rendition of accounts only and hence there is no criminal liability on his part. The trial Court after going through the evidence convicted the petitioner under Section 420 IPC and sentenced him to undergo R.I. for 2 years. The appeal filed by the petitioner was dismissed by the Sessions Judge, Ropar vide his judgement dated 25.1.1992.

Mr. Vipin Ghai, counsel for the petitioner submits that a civil suit was also filed by M/s Punjab Tractors which was decreed in their favour and in pursuance to the decree, the petitioner has paid the entire amount to the respondent. He further submits that the petitioner has already undergone agony of long and protracted litigation for the last about 18 years and hence a lenient view be taken in the case. Learned counsel further submits that the petitioner is 61 years of age as of now.

Learned counsel for the State, however, submits that the petitioner is not entitled to any leniency as he has cheated M/s Punjab Tractors.

After hearing the counsel for the parties, I am of the considered opinion that as the petitioner has already made the entire payment for the remaining three tractors and further that he has already faced a long and

protracted litigation for almost 18 years, therefore, while upholding the period of conviction of the petitioner I reduce the sentence of the petitioner to the one already undergone by him. The petitioner shall, however, pay the fine as imposed by the Courts below.

Revision petition is disposed of in the above terms.

December 14, 2007 **(ASHUTOSH MOHUNTA)**
Gulati **JUDGE**